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09/502,699	02/11/2000	Michael F. Grant	583-1028	5542
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BARNES & THORNBURG, LLP			MEHRA, INDER P	
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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/502,699	<b>Applicant(s)</b> GRANT ET AL.	
	<b>Examiner</b> Inder P. Mehra	<b>Art Unit</b> 2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 43-46 is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/11/00 and 6/28/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This is in response to "Pre-Appeal brief request for review" dated: 9/16/05. Based on the amendment dated 3/25/05, claims 1-46 are pending.
2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 5, 7, 9-11, 14, 16, 18-19, 21-22, 24-26, 29-32, 34-35 and 40-41, are rejected under 35 U.S.C. 102(b) as being anticipated by **Kamm et al** (US Patent No. 5,457,680), hereinafter, Kamm.

For claims 1, 5, 7, 9-10, 14, 16, 18, 21- 22, 24-25, 29-31, 34-35 and 40-41, Kamm discloses, in reference to figs. 1 and 1A, a communication system comprising a core network (data communication network) coupled over multiple isolated connections to a plurality of distribution gateways (Home mobile data gateway) each providing network access capability to local data devices (mobile data radio terminals SU-1 through SU-3 and mobile voice telephone units ) serviceable thereby , at least some of the plurality of distribution gateways interconnected through communication resources , **recited by claim 18 also**, (backbone 102 in fig. 1A), refer to

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col. 3 lines 40-45 and wherein said interconnected distribution gateways each includes, as recited by claims 1, 9, 18, 24, 31:

- control functionality (CPU120 in fig. 1A) arranged to administer access to the core network (data communication network 100) through securing network access capability using the interconnected distribution gateways, **as recited by claims 1, 9, 18, 24-25, 31** (refer to 104 and 204 in figs. 1 and 1A) via at least one of the multiple isolated connections (T1 in fig. 1, refer to fig. 1A), refer to col. 5 lines 55-65.
- “wherein a first of the gateways accesses the core network via an isolated connection to a second of the gateways when an isolated connection to the first gateway is unable to support access to the core network”, **as recited by claims 1, 9, 18, 24, 31** (this limitation is disclosed by Kamm, refer to col. 10 lines 39-49 and col. 26 lines 50-60, wherein reallocation of route via second base station is made if the current strength of signal is poor).
- code arbitrates interconnection (**executable instructions which are executed in the CPU 120 to carry out the functions---**, refer to col. 5 lines 64-66) of the home-gateway with at least one further home gateway connectable to the core network, **as recited by claim 31, refer to figs. 1 and 1A;**
- wherein the codes reside in a computer readable medium, **as recited by claim 31**, refer to CPU120 in fig. 1A, refer to col. 5 lines 64-66.
- “wherein the communication resources interconnecting -----include at least one of RF channel resources, optical connections, LAN (recited by claim 30), and wire line connections, **as recited by claims 7, 16, 22, 30, and 35**, refer to fig. 1.

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- where the control functionality provides a routing function for broadband communications between a plurality of interconnected distribution gateways, **as recited by claim 10, refer to fig. 1.**
- “encrypting communications between an associated device and the core network”, **as recited by claims 5, 14, 21, 29, and 34, refer to col. 21 lines 50-55.**
- a consolidated function arranged to direct downstream information packets to a data device associated with a first home gateway via both a direct isolated connection, **refer to fig 1 A, F40,** and an indirect isolated connection via a second home-gateway when the direct isolated connection to the first home-gateway is unable to fully support access to the network, **as recited by claim 40, , refer to backbone 102 in fig. 1A, steps 638, 636, 638 and 640, col. 10 lines 39-55.**
- the consolidation function is operable having regard to congestion conditions on the multiple isolated connection, **as recited by claim 41, refer to col. 12 lines 40-45, col. 12 lines 49-51**

For claims 2, 11, 19, 26 and 32, Kamm discloses the communication system of claim 1, as above, wherein the control functionality operates according to at least one of:

- a bandwidth-driven requirement (If mobile data gateway determines –additional bandwidth is required---or does not warrant as many channels----add or delete), refer to col. 12 lines 56-61;
- a fault driven basis to secure access to the core network (determines if third signal measurement data is better than the first signal measurement data and second signal

measurement data and if so----allocates with the server mobile data gateway, a new channel at the third base station-----), refer to col. 3 line 55 through col. 4 line 3.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 12, 27 and 42 are rejected under 35 U.S.C. 103(a) as being obvious over

**Kamm et al** (US Patent no. 5,457,680), hereinafter, Kamm in view of **Mahalingaiah et al** (US Patent No. 6,654,346), hereinafter, Mahalingaiah.

For claims 3, 12, 27 and 42, Kamm discloses all the limitations of subject matter, including the following limitation, as above in paragraph 7,

- the indirect isolated connection, **as recited by claim 42, refer to backbone 102 in fig. 1A;**

Kamm does not disclose the following limitation, which is disclosed by Mahalingaiah., as follows:

- \* “wherein the control functionality includes a prioritization function that secures a guaranteed minimum bandwidth for communication with network for associated data equipment, **as recited by claims 3, 12, 27 and 42, refer to col. 6 lines 8-16.**

It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the capability of prioritization function. The capability can be implemented by

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combining the system as taught by Kamm and Mahalingaiah at the Home media gateway. The suggestion/motivation to do so would have been to use the shared resources.

7. Claims 4, 13, 20, 28, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kamm**, as applied to claims 1, 9, 18, 24, 31 above, and further in view of **Shionozaki** (US Patent No. 6,496,479).

For claims 4, 13, 20, 28, and 33, Kamm discloses all the limitations of subject matter, as in paragraph 7 above, with the exception of the following limitation:

- wherein at least some of the isolated connections are point-to-point connections supporting digital subscriber line communications;

Shionozaki discloses, “wherein at least some of the isolated connections are point-to-point connections supporting digital subscriber line communications”, refer to col. 8 lines 4-7, col. 7 lines 40-45.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the capability of using point-to-point connections supporting digital subscriber line. The capability can be implemented by combining the system as taught by Kamm and Shionozaki at the Home media gateway. The suggestion/motivation to do so would have been to provide digital communication to the subscribers at high speed.

8. Claims 6, 8, 15, 17, 23, 36, 38 and 39 are rejected under 35 U.S.C. 103(a) as being obvious over **Kamm**, as applied to claims 1, 9, 18, 24 and 31 above, in view of **Davis et al** (US Patent No. 6,167,389), hereinafter, **Davis**.

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For claims 6, 8, 15, 17, 23, 36, 38 and 39, Kamm discloses all the limitations of the subject matter with the exception of the following limitations:

- an optical transceiver for converting optical communications into electrical impulses, **as recited by claims 6 and 15**; and
- a transceiver coupled to a plurality of distribution points whereby the plurality of distribution points acquire access to the core network via the optical fiber, **as recited by claims 6 and 15**.
- “a billing center coupled to the core network, the billing center configured to generate and record varying levels of charges for access to the core network in response to use by a distribution gateway and the core network, **as recited by claims 8, 17, 23, 36, 38 and 39**.
- direct (F20 and F10 in fig. 1A) and indirect isolated connections (F30 40 in fig. 1A) between their associated distribution gateway and the core network, **as recited by claims 36 and 39, (refer to direct connections F20 and F10, and indirect isolated connections F40 and F30 in figure 1A),**

Davis discloses the following limitations:

- an optical transceiver for converting optical communications into electrical impulses, **as recited by claims 6 and 15**; refer to 40a, 40b and 40c in fig. 1 and col. 5 lines 18-25 and
- a transceiver coupled to a plurality of distribution points whereby the plurality of distribution points acquire access to the core network via the optical fiber, **as recited by claims 6 and 15**, refer to fig. 1 and fig. 2, col. 6 lines 51 and 64.



- “a billing center coupled to the core network, the billing center configured to generate and record varying levels of charges for access to the core network in response to use by a distribution gateway and the core network, **as recited by claims 8, 17, 23 and 36**, refer to col. 6 lines 15-28.
- recording the varying level of charge in a database for subsequent billing purposes, **as recited by claims 36 and 39**, refer to col. 6 lines 25-28.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the capability of optical fiber, RF channel, broadband and billing charges. The capability can be implemented by combining the system as taught by Kamm and Davis at the Home media gateway or subscriber's unit. The suggestion/motivation to do so would have been to provide digital communication to the subscribers at high speed (optical fiber).

9. Claims 37 is rejected under 35 U.S.C. 103(a) as being obvious over **Kamm** in view of **Davis et al.** as applied to claim 36 above, further in view of **Shionozaki** (US Patent No. 6,496,479).

For claim 37, Kamm discloses all the limitations of the subject matter, with the exception of the following limitation:

- the isolated connections are point-to-point connections supporting digital subscriber line communications;

Shionozaki discloses, “wherein the isolated connections are point-to-point connections supporting digital subscriber line communications”, refer to col. 8 lines 4-7, col. 7 lines 40-45.

It would have been obvious to a person of ordinary skill in the art at the time of the

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invention to use the capability of using point-to-point connections supporting digital subscriber line. The capability can be implemented by combining the system as taught by Kamm, Davis and Shionozaki at the Home media gateway. The suggestion/motivation to do so would have been to provide digital communication to the subscribers at high speed.

***Allowable Subject Matter***

10. Claims 43-46 are allowed.

***Response to Arguments***

11. Applicant's arguments filed 3/25/2005 have been fully considered but they are not persuasive.

Applicant argues "The routing, in Kamm, has nothing to do with whether the direct isolated connection (T1) between a gateway and the core network can support access to the core network. In Kamm, traffic is always first routed to the home gateway (e.g. gateway 104) of a mobile. If signal strength measurements between a mobile and various base stations (B1-B3) in the system indicate that another base station offers a better wireless link to the mobile, then the traffic is forwarded to another base station. If the new base station is served by a different gateway, then this requires the home gateway to forward the traffic to another gateway serving that base station. At all times, traffic is always first routed to the home gateway of a mobile and the routing is based entirely on signal strength of the wireless link within cells served by B1-B3".

In response, it is stated that the poor signal strength is due to high signal to noise ratio, which means high error in communication, and therefore, is a fault in the communication path. In

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other words, the signal strength is weaker than threshold and is, therefore, an error rate being high.. That isolated connection cannot, therefore, be selected. In other words, as claimed by applicant, **“wherein a first of the gateways accesses the core network via an isolated connection to a second of the gateways when an isolated connection to the first gateway is unable to support access to the core network”**. Alternate path is selected, which is **expressly** disclosed by Kamm, refer to col. 10 lines 39-49 and col. 26 lines 50-60, as explained in paragraph 3, above.

Applicant, further, argues “In relation to claim 43, Examiner has continued to overlook that this claim requires that data packets are sent in an un-encrypted form across a direct isolated connection existing between the network and the distribution gateway and sent in an encrypted form across an indirect isolated connection existing between the network and a second distribution gateway. Consequently, claim 43 is not anticipated by Kamm”.

Since this claim has now been allowed, the argument is no longer valid.

**In light of above explanation, arguments by applicant are persuasive.**

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Inder P. Mehra whose telephone number is 571-272-3170. The examiner can normally be reached on Monday through Friday from 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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